

## ORDINANCE NO. 2015- 15

AN ORDINANCE OF THE COUNTY OF COLUMBIA, STATE OF FLORIDA, DISSOLVING THE CODE ENFORCEMENT BOARD, PRESERVING ITS PRIOR ACTIONS, PROVIDING FOR REPLACEMENT OF THE CODE ENFORCEMENT BOARD WITH A SPECIAL MAGISTRATE; PROVIDING THAT REFERENCES TO THE CODE ENFORCEMENT BOARD ELSEWHERE IN THE CODE, THE LAND DEVELOPMENT REGULATIONS AND ANY OTHER CODES, ORDINANCES AND RESOLUTIONS OF THE COUNTY OF COLUMBIA, STATE OF FLORIDA, ARE DEEMED REFERENCES TO THE SPECIAL MAGISTRATE; GRANTING ALL POWERS AND DUTIES AS PRESCRIBED BY FLORIDA LAW TO THE SPECIAL MAGISTRATE; PROVIDING FOR APPOINTMENT OF, AND TERMS AND COMPENSATION OF, SPECIAL MAGISTRATES; CONFIRMING ORDINANCE TO BE ENFORCED; CONFORMING THE FINE PROVISIONS THEREOF TO THE CORRESPONDING PROVISIONS OF SECTION 162.09(2)(D), FLORIDA STATUTES; INCORPORATING THE PROVISIONS OF FLORIDA STATUTE 162.01-162.13, AS AMENDED, THEREIN; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, it is the intent of Columbia County to promote, protect, and improve the health, safety, and welfare of the citizens of Columbia County, Florida, by authorizing the appointment of one or more code enforcement Special Magistrates with authority to impose administrative fines and other non-criminal penalties to provide an equitable, expeditious, effective, and inexpensive method of enforcing certain codes and ordinances in force within the county where a pending or repeated violation exists;

**WHEREAS**, Chapter 162, Florida Statutes, as amended, authorizes Columbia County, by ordinance, to adopt a code enforcement system that gives Special Magistrates the authority to hold hearings and assess fines against violators of the respective county codes and ordinances;

**WHEREAS**, the Special Magistrate shall have the same status and powers as a code enforcement board under Chapter 162, Part I, Florida Statutes, as amended; and

**WHEREAS**, Section 162.09 Florida Statutes, as amended, authorizes any county having a population greater than 50,000 to adopt, by vote of at least a majority plus one of the entire governing body, an ordinance that gives the Special Magistrate the authority to impose fines in excess of the limits set forth in paragraph (2)(a) of section 162.09.

### **NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLUMBIA COUNTY, FLORIDA:**

**Section 1. Findings.** The above Recitals are incorporated herein by reference and are hereby adopted as Findings in support of this Ordinance.

### **Section 2. Definitions.**

- (A) Unless the context requires otherwise, the terms used in this article shall have the definitions provided under Chapter 162, Florida Statutes, as amended.
- (B) Also as used in this article, and unless the context clearly requires otherwise, the following terms shall have the meanings herein ascribed:

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- (1) "Board" shall mean the Board of County Commissioners of Columbia County, Florida.
  - (2) "County" shall mean Columbia County, Florida.
  - (3) "Rendition of order" shall mean the date a final written decision is signed by the Special Magistrate.

### **Section 3. Enforcement Board dissolved: references revised.**

The Code Enforcement Board heretofore established by prior ordinance is dissolved effective sixty (60) days from the effective date of this ordinance, provided that all prior administrative actions, orders, and liens imposed by such Code Enforcement Board shall remain in full force and effect. No cases shall be referred to the Code Enforcement Board on and after the thirtieth (30<sup>th</sup>) day following the effective date of this ordinance. All cases remaining pending before the Code Enforcement Board as of dissolution of the Code Enforcement Board shall be transferred to the Special Magistrate. All references to the Code Enforcement Board occurring elsewhere within the code, within the County's Land Development Regulations and within any other codes, ordinances and resolutions of the Board shall hereafter be deemed to refer to the Special Magistrate or Special Magistrates appointed under the authority of this article.

### **Section 4. Special Magistrate appointment and power.**

- (1) The Board shall appoint a Special Magistrate or Special Magistrates, as needed. Appointments shall be made on the basis of experience and interest in the subject matter, in the sole discretion of the Board. A Special Magistrate must be a member on good standing of the Florida Bar. Appointments to fill any vacancy shall be for the remainder of an unexpired term of office should a sitting magistrate resign.
- (2) The term of office for a Special Magistrate shall be for three years from the date of appointment, unless terminated earlier by the Board for misfeasance, malfeasance or nonfeasance in office.
- (3) The amount of compensation paid to the Special Magistrate shall be determined from time to time by resolution of the Board and may not be reduced during the term of office.
- (4) Special Magistrate shall have the same status, powers and duties as a Code Enforcement Board as prescribed in Chapter 162, Part 1, Florida Statutes, as amended.

### **Section 5. Administrative fines: unpaid fines constitute liens.**

Pursuant to Section 162.09(2)(d) Florida Statutes, as amended, the Special Magistrate is authorized to impose fines not to exceed \$1,000 per day per violation for the first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation if the Special Magistrate finds the violation to be irreparable or irreversible in nature. The Special Magistrate may also impose additional fines to cover all costs incurred by the County in the enforcement of the ordinances and codes pursuant to Part I of Chapter 162 of the Florida Statutes, as amended.



### **Section 6. Jurisdiction of Special Magistrate.**

Except as otherwise indicated in this Ordinance, the Special Magistrate shall have the jurisdiction and authority to hear and decide alleged violations of the following codes and ordinances of the County, with the County's designated Code Enforcement Staff bearing the responsibility for investigation of the County Attorney's Office bearing the responsibility for prosecution of:

- (1) Housing and building codes, fire, sign, and tree ordinances; and
- (2) Zoning, Land Development regulations, Comprehensive Plan, abandoned vehicles, landscape ordinances; and
- (3) Subdivision, water and drainage, County right-of-way ordinances associated with constructing, installing, repairing, removal, restoration with such right-of-way; and
- (4) Litter and solid waste ordinances; and
- (5) All other ordinances, codes, and regulations of the County, as may hereafter be provided by the County through separate Ordinance or Resolution.

**Section 7. Deposit, disposition of proceeds.**



All monies received hereunder, generated by fines or otherwise, shall be deposited into the County's General Fund, and may be used for any lawful purpose authorized by legislation, ordinance, statute, or law. The County shall, from time to time, set by resolution such administrative fees as may be assessed against a violator and violator's property by the Special Magistrate in connection with any proceeding before the Special Magistrate as provided herein.

**Section 8. Appeals.**

Pursuant to Section 162.11 of the Florida Statutes, as amended, an aggrieved party, including the Board, may appeal a final administrative order of the Special Magistrate to the Circuit Court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the Rendition of the Order to be appealed.

**Section 9. Provisions supplemental.**

It is the legislative intent of this article to provide an additional or supplemental means of obtaining compliance with the codes and ordinances set forth in Section 5. Nothing contained herein shall prohibit the Code Enforcement Staff from enforcing such codes and ordinances by any other lawful means.

**Section 10. Severability.**

In any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 11. Effective Date.**

**This Ordinance shall take effect immediately upon a certified copy thereof being filed with the Florida Department of State.**

**DULY ADOPTED by the Board of County Commissioners of Columbia County, Florida, this 6th day of Aug. , 2015**

**BOARD OF COUNTY COMMISSIONERS  
COLUMBIA COUNTY, FLORIDA**

**By: \_\_\_\_\_  
Rusty DePratter, Chair**

**Approved as to form and legality:**

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**Joel F, Foreman, County Attorney**

**ATTEST: P. Dewitt Cason, Clerk of Court**

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**Deputy Clerk**

**Effective Date: \_\_\_\_\_**